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SUPERFUND FINANCING PROVISIONS AND PROPOSALS
(H.R. 2817 AND POSSIBLE AMENDMENTS)

Scheduled for Markup

By the

COMMITTEE ON WAYS AND MEANS

On October 17, 1985

Prepared by the Staff

of the

JOINT COMMITTEE ON TAXATION

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INTRODUCTION

This document[1] provides a comparison of Superfund financing provisions and proposals under present law (prior law for the Superfund tax provisions, which expired after September 30, 1985),[2] H.R. 2817 as reported by the authorizing committees in the House, and possible amendments for consideration by the Committee on Ways and Means at the scheduled markup on October 17, 1985.

H.R. 2817 was reported by the Committee on Energy and Commerce on August 1, 1985 (H. Rep. No. 99-253, Part 1). The bill was also referred to the Committees on Judiciary, Merchant Marine and Fisheries, Public Works and Transportation, and Ways and Means. The Committee on Merchant Marine and Fisheries approved H.R. 2817 with amendments on October 1, 1985; the Committee on Judiciary approved the bill with amendments on October 8, 1985; and the Committee on Public Works and Transportation approved the bill with amendments on October 10, 1985. (Committee reports have not yet been filed by the Committees on Merchant Marine and Fisheries, Judiciary, and Public Works and Transportation.)

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[1] This document may be cited as follows: Joint Committee on Taxation, Superfund Financing Provisions and Proposals (H.R. 2817 and Possible Amendments) (JCX-25-85), October 16, 1985.

[2] A 45-day extension of the then existing Superfund taxes was approved by the Committee on Ways and Means on September 27, 1985, and passed by the House on October 1, 1985 (H.R. 3453). On October 9, 1985, the Senate deleted the Superfund tax extension from the bill and passed the bill with an amendment relating to the Federal Financing Bank. No further action has occurred with respect to H.R. 3453.

The Senate passed a 5-year extension of the prior Superfund taxes (along with other Superfund tax amendments) on September 26, 1985, as an amendment to H.R. 2005 (provisions of S. 51 as amended by the Senate). No further action has occurred with respect to H.R. 2005.

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Item	Present Law	H.R. 2817 *	Possible Amendment
I. Hazardous Substance Response Trust Fund ("Superfund")			
A. Overall funding level	Provided for deposits of tax revenues and general revenue appropriations into the Superfund intended to total $1.6 billion for fiscal years 1981-1985.	Provides for deposits of tax revenues and general revenue appropriations into the Superfund to total $10 billion for fiscal years 1986-1990.	Provides for deposits of tax revenues, general revenue appropriations, and borrowing authority intended to total $10 billion in Superfund revenues for fiscal years 1986-1990 (including interest and recoveries).
B. General revenue appropriations	There is authorized to be appropriated to the Superfund an aggregate of $220 million over fiscal years 1981 through 1985 ($44 million per year) from general revenues (13.75 percent of total funding).	There would be authorized to be appropriated to the Superfund, from general revenues, an aggregate of $1.25 billion over fiscal years 1986 through 1990 ($250 million per year) (12.5 percent of total funding). For each year, previously authorized (but unappropriated) amounts could also be appropriated. General revenue authorizations would be reduced, in any year, by the amount of recoveries from responsible parties in the preceding year (see D below).	There would be authorized to be appropriated to the Superfund $1.38 billion over fiscal years 1986 through 1990 ($275 million per year) from general revenues (13.75 percent of total funding). For each year, previously authorized (but unappropriated) amounts could also be appropriated.

*Unless otherwise indicated, this column reflects H.R. 2817 as reported by the Committee on Energy and Commerce.

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Item	Present Law	H.R. 2817	Possible Amendment
B. General revenue appropriations (Cont'd)		Alternative import tax.--The amount of the general revenue authorization would further be reduced proportionately if a tax on imported products manufactured from taxable feedstock chemicals, designed to raise $700 million over the 5-year period, is enacted. (The tax on feedstock chemicals is described below). (Under an amendment approved by the Committee on Public Works and Transportation, an ad valorem tax would be imposed, effective January 1, 1986, on the sale of imported substances directly or substantially manufactured or produced from materials consisting of one or more taxable feedstock chemicals. The tax would be designed to raise $1.5 billion over the 5-year period, and would be in addition to (rather than a substitute for) general revenue appropriations.)	Study of import tax.--The Secretary of the Treasury (in consultation with the International Trade Commission) would study the desirability and feasibility of imposing a tax on imported derivatives of taxable chemical feedstocks. Such study would be submitted by the Secretary of the Treasury to the Committee on Ways and Means not later that December 31, 1986.

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Item	Present Law	H.R. 2817	Possible Amendment
C. Taxes	$1.38 billion of the $1.6 billion funding level is derived from excise taxes on: (1) petroleum and petroleum products ($0.2 billion); and (2) feedstock chemicals ($1.2 billion).	$8.75 billion of the intended $10.0 billion funding level would be derived from taxes, resulting in an overall funding breakdown as follows: Petroleum tax $0.2 billion Feedstock chemicals tax 1.3 billion Waste end tax 1.5 billion Broad-based corporate tax 4.5 billion Separate tax or taxes to fund Petroleum Release Response Account 1.25 billion General revenue appropriations 1.25 billion $10.0 billion (Under an amendment approved by the Committee on Public Works and Transportation, $8.75 billion of the intended $10.0 billion funding level would be derived from taxes, for the following overall funding breakdown:	$6.2 billion of the intended $10.0 billion funding level would be derived from taxes, resulting in an overall funding breakdown as follows: Petroleum tax $1.7 billion Feedstock chemicals tax 1.7 billion Waste management tax 2.0 billion Gasoline tax to fund Petroleum Release Response Trust Fund 0.85 billion General revenue appropriations 1.38 billion Interest and recoveries 0.50 billion Borrowing authority 1.90 billion $10.0 billion

SUPERFUND

Item	Present Law	H.R. 2817	Possible Amendment
C. Taxes (Cont'd)		Petroleum tax $0.2 billion Feedstock chemicals tax 1.3 billion Waste end tax 1.25 billion Broad-based corporate tax 3.6 billion Tax on imported feedstock derivatives 1.5 billion Separate tax or taxes to fund Petroleum Release Response Account 0.9 billion General revenue appropriations 1.25 billion $10.0 billion)	

SUPERFUND

Item	Present Law	H.R. 2817	Possible Amendment
D. Other financing sources	The following amounts are also deposited in the Superfund: (1) amounts recovered from parties responsible for hazardous substance releases; (2) penalties assessed against responsible parties; (3) punitive damages for failure to provide removal or remedial action upon order of the President; and (4) interest on Trust Fund balances.	Same as present law.	Same as present law.

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Item	Present Law	H.R. 2817	Possible Amendment
E. Expenditure purposes	Amounts in the Superfund are available for expenditures incurred in connection with releases or threats of releases of hazardous substances into the environment. Allowable costs include: (1) costs of responding to the presence of hazardous substances on land or in the water or air, including cleanup and removal of such substances and remedial action; (2) certain costs related to response, including natural resources damage assessment, epidemiologic studies, and maintenance of emergency strike forces; and	(1) Same as present law. (2) Same as present law, except: (a) Deletes costs relating to natural resource damage assessments. (Under amendments approved by the Committee on Merchant Marine and Fisheries and the Committee on Public Works and Transportation, natural resource damage assessments would be reinstated as an expenditure purpose.)	(1) Same as present law. (2)(a) Delete costs relating to natural resource damage assessments.

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Item	Present Law	H.R. 2817	Possible Amendment
E. Expenditure purposes (Cont'd)		(b) Adds costs incurred in connection with health assessment studies regarding individual facilities; costs incurred in preparing toxicological profiles of certain hazardous substances; costs of a hazardous substance research and training program, not to exceed $113 million over the 5-year period; oversight costs for certain private remedial activities; and costs incurred in evaluating potential hazards posed by releases pursuant to petitions filed by any person. (Under the amendment approved by the Committee on Public Works and Transportation, expenditures would also be permitted for (i) research, development, and demonstration costs associated with alternative remedial technologies, not to exceed $25 million per year,	(2)(b) Same as H.R. 2817 (including additions by the Committee on Public Works and Transportation).

Item	Present Law	H.R. 2817	Possible Amendment
E. Expenditure purposes (Cont'd)		(ii) grants for university hazardous waste research centers, not to exceed $10 million per year, and (iii) costs of enforcement (as well as oversight) with respect to private remedial activities.)	
	(3) payment of damage claims for injury to, or destruction or loss of, natural resources belonging to or controlled by Federal or State governments. No more than 15 percent of Superfund revenues attributable to taxes and general revenue appropriations may be used for the payment of natural resource damage claims.	(3) Deletes natural resource damage claims as a permitted expenditure purpose. (The amendment approved by the Committee on Public Works and Transportation would retain natural resource damage claims as a permitted expenditure purpose. That amendment would also repeal a present law prohibition against payment of claims associated with injuries or losses resulting from long-term exposure to air pollution from multiple or diverse sources).	(3) Delete natural resource damage claims as a permitted expenditure purpose.

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Item	Present Law	H.R. 2817	Possible Amendment
E. Expenditure purposes (Cont'd)	(4) No provision.	(4) Adds costs of grants for technical assistance to individuals affected by hazardous substance releases. (Under an amendment approved by the Committee on Public Works and Transportation, expenditures would also be permitted for grants to nonprofit organizations for training of hazardous waste workers, not exceeding $10 million per year.)	(4) Same as H.R. 2817 (including addition by the Committee on Public Works and Transportation).
	(5) No Superfund moneys are available for removal actions with respect to Federally owned facilities (sec. 111(e)(3) of CERCLA).	(5) Under an amendment approved by the Committee on Public Works and Transportation, fund moneys would be available for the removal of substances released from Federally owned facilities where (1) the release poses an imminent and substantial danger to public health and the environment, and (2) the agency having primary jurisdiction over the facility does not act within a reasonable time to effect such removal.	(5) Retain present law.

Item	Present Law	H.R. 2817	Possible Amendment
E. Expenditure purposes (Cont'd)	(6) No provision.	(6) Superfund monies generally are available for transfer of hazardous waste.	(6) No Superfund monies are available for transfer of any hazardous substance from a facility at which a release (or threatened release) has occurred to a facility for which a final permit is in effect under section 3005(a) of the Solid Waste Disposal Act, if (1) such permit was issued after January 1, 1983, and before November 1, 1984, and (2) the transfer is carried out pursuant to a cooperative agreement between the EPA Administrator and the State (sec. 121(i) of the Energy and Commerce bill).

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Item	Present Law	H.R. 2817	Possible Amendment
F. Petroleum-related releases.	Petroleum releases (unless specifically covered by certain environmental laws), and releases of natural or synthethic gases, are not covered by the Superfund. Additionally, the fund may not be used to cover costs associated with workplace releases, certain nuclear releases, or releases associated with engine exhausts or the normal application of fertilizer.	A Petroleum Release Response Account would be established within the Superfund, to be available for cleanup and related costs associated with leaking underground storage tanks containing petroleum products. This account would be funded by (i) a separate, unspecified tax or taxes intended to raise $1.25 billion over fiscal years 1986 through 1990, (ii) interest on account balances, and (iii) recoveries from responsible parties under section 9003(h) of the Solid Waste Disposal Act. No tax would be imposed during fiscal year 1988, 1989, or 1990 if the unobligated balance in the account exceeded $250 million on the preceding September 30. (The amendment approved by the Committee on Public Works and Transportation would raise $0.9 billion over the period in unspecified taxes for the Petroleum Release Response Account. Such taxes would be suspended during any calendar quarter if the account balance exceeded $100 million at the close of the preceding quarter.)	A separate Petroleum Release Response Trust Fund would be established, to be available for cleanup and related costs associated with leaking underground storage tanks containing petroleum products. The trust fund would be funded by (i) an 0.2-cent per gallon tax on gasoline, diesel fuel, and special motor fuels sold by a producer or importer, using the same tax base and collection procedures as the present law excise taxes on gasoline (secs. 4041 and 4081 of the Code), (ii) interest on balances in the trust fund, and (iii) recoveries from responsible parties under section 9003(h) of the Solid Waste Disposal Act. The gasoline tax would expire on September 30, 1990. However, no further tax would be imposed if, on any date before September 30, 1990, it cumulative revenues from the tax exceeded $850 million.

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Item	Present Law	H.R. 2817	Possible Amendment
G. Limitation on Liability	Claims against the Superfund may be paid only out of the fund. If claims against the Superfund exceed the balance available for payment of those claims, the claims are to be paid in full in the order in which they are finally determined.	Same as present law.	Same as present law. (A parallel limitation would apply with respect to the Petroleum Release Response Trust Fund.)
H. Borrowing authority	The Superfund has authority to borrow from general Treasury funds for the purposes of paying response costs in connection with a catastrophic spill or paying natural resource claims. Outstanding advances at any time may not exceed estimated tax revenues for the following 12 months; advances for paying natural resource claims may not exceed 15 percent of such revenues. All advances must be repaid by September 30, 1985.	No extension of borrowing authority after September 30, 1985.	The Superfund would have authority to borrow, at any time during the 5-year period, a maximum amount equal to $10 billion reduced by current and projected tax revenues, general revenue appropriations, interest, and recoveries. (Assuming the projections contained in C above, this would constitute $1.90 billion of aggregate borrowing authority.) Taxes (not including the gasoline tax to fund the Petroleum Release Response Trust Fund) would be extended beyond September 30, 1990, if necessary to repay borrowings made during the 5-year period (with interest).

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Item	Present Law	H.R. 2817	Possible Amendment
I. Termination date	The petroleum and feedstock chemical taxes expired on September 30, 1985.	The Superfund taxes would expire on September 30, 1990. (Certain taxes would be suspended or terminated earlier than September 30, 1990, under conditions described below.)	The Superfund taxes would expire on September 30, 1990. Taxes (other than the gasoline tax used to fund the Petroleum Release Response Trust Fund) would be extended beyond September 30, 1990, for as long as necessary to repay with interest authorized borrowings made by the Superfund during the 5-year period reauthorization period (see H. above)
J. Location of trust fund provisions	The Superfund is created as a fund in the Treasury under CERCLA, but is not included under the trust fund code of the Internal Revenue Code.	No provision.	The Superfund would be established as a trust fund under the Internal Revenue Code.

Item	Present Law	H.R. 2817	Possible Amendment
Effective Date		**Effective date.**--The extension of the petroleum and feedstock taxes would be effective October 1, 1985. No separate effective date is stated for the remaining tax and trust fund provisions; however, the substantive provisions generally apply with respect to fiscal years 1986 through 1990.	**Effective date.**--The amendments to the petroleum and feedstocks taxes, the new gasoline tax, and the amendments to the trust fund provisions would be effective November 1, 1985. At the election of the taxpayer, present law petroleum and feedstocks taxes would remain in effect from October 1, 1985, through October 31, 1985. The repeal of natural resource damage claims as a fund expenditure purpose would be effective November 1, 1985. The new waste management tax would be effective January 1, 1986.

Item	Present Law	H.R. 2817	Possible Amendment
II. Petroleum Tax			
A. Imposition of tax	An excise tax of 0.79 cent per barrel is imposed on (1) crude oil received at a U.S. refinery; and (2) petroleum products (including crude oil, natural and refined gasoline, refined and residual oil, and certain other liquid hydrocarbon products) imported into the U.S. for consumption, use, or warehousing.	Same as present law.	The tax would be increased to 6.4 cents per barrel.

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Item	Present Law	H.R. 2817	Possible Amendment
B. Termination date	The tax expires on September 30, 1985. The tax would have been suspended for the next calendar year if-- (1) on September 30, 1983, or 1984, the fund balance had exceeded $900 million, and (2) absent the petroleum and feedstock taxes, the fund would have exceeded $500 million on the next September 30. (As of September 30, 1984, the unobligated balance in the Fund was $295.1 million.) Further, authority to collect the tax terminates when cumulative receipts from petroleum tax and feedstocks chemicals tax reach $1.38 billion.	The tax would expire September 30, 1990. The tax would be suspended for the next calendar year if-- (1) on September 30, 1988, or 1989, the fund balance exceeds $4.9 billion, and (2) absent the petroleum and feedstock taxes, the fund would exceed $2.7 billion on the next September 30.	The tax would expire September 30, 1990; however, the tax would be extended beyond September 30, 1990, together with the feedstock and waste end taxes, if necessary to repay Superfund borrowings during the 5-year reauthorization period.

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Item	Present Law	H.R. 2817	Possible Amendment
III. Tax on Feedstock Chemicals A. Imposition of tax	A tax is imposed on the sale of 42 organic and inorganic substances ("feedstock chemicals") by a manufacturer, producer, or importer, at the rates listed in Table A (attached). The tax rates were set in 1980 and were limited to the lower of 2-percent of wholesale prices or (1) $4.87 per ton for petrochemicals, and (2) $4.45 per ton for inorganic feedstocks. (Certain chemicals are taxed at lower rates than would be arrived at under this forumula.) The feedstock chemicals tax applies to chemicals manufactured in the U.S. (as defined for purposes of the petroleum tax) or imported into the U.S. for consumption, use, or warehousing. If a taxpayer uses a taxable feedstock prior to sale, the tax is imposed on such use. If one taxable chemical is used to produce a second, the tax on the first chemical is allowed as a credit against the second tax (to the extent of that second tax).	Same as present law.	Tax would be imposed on present law feedstocks and, additionally, lead. The tax rates would be set at the lower of 2 percent of current estimated wholesale price or (1) $4.87 per ton for petrochemicals, and (2) $4.45 per ton for inorganic feedstocks, but not lower than the present law rate for any presently taxed chemical (see table A). Beginning in 1987, the tax rates would be indexed annually for inflation, as measured by the average producer price index for organic or inorganic chemicals, but would not be reduced below 1986 rates.

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Item	Present Law	H.R. 2817	Possible Amendment
B. Exceptions to tax	Exceptions to the feedstock chemicals tax are provided for: (1) Butane or methane used as a fuel. (2) Nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia, if used to produce fertilizer. (3) Sulfuric acid produced solely as a by-product of (and on same site as) air pollution control equipment. (4) Any taxable feedstock to the extent derived from coal. (5) Petrochemicals used to manufacture or produce motor fuel, diesel fuel, aviation fuel, or jet fuel. (6) Cupric sulfate, cupric oxide, cuprous oxide, zinc chloride, zinc sulfate, barium sulfide or lead oxide which exist in transitory form in the process of refining non-taxable metal ores or compounds into other (or purer) non-taxable compounds.	Modifies present law exceptions as follows: (1) Retains present law exception. (2) Retains present law exception. (3) Retains present law exception. (4) Retains present law exception. (5) Retains present law exception. (6) Retains present law exception.	Modifies present law exceptions as follows: (1) Retains present law exception. (2) Retains present law exception. (3) Retains present law exception. (4) Repeals exception. (5) Retains present law exception. (6) Retains present law exception with addition of lead.

Item	Present Law	H.R. 2817	Possible Amendment
B. Exceptions to tax (cont.)	(7) No provision.	(7) Nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia, if used (or sold for ultimate use) in the manufacturer or production of animal feed. Effective date.--October 1, 1985.	(7) Retain present law (no exemption). Effective date.--November 1, 1985.
C. Treatment of exported feedstocks	No exemption is provided for exports of taxable feedstocks.	No provision.	Taxable feedstocks sold for export by the manufacturer or producer, or for resale by a second purchaser for export, would be exempt from tax. If tax is paid on a chemical, and the chemical is later exported, a credit or refund would be allowed to the person who paid the tax. Effective date.--November 1, 1985.

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Item	Present Law	H.R. 2817	Possible Amendment
D. Clarification of tax treatment of xylene	Treasury has taken the position that xylene includes separated isomers of xylene for purposes of the feedstock tax.	No provision.	It would be clarified that, except for imports and exports, xylene does not include separated isomers for purposes of the feedstock tax. Separation of xylene isomers would constitute use of a mixed stream of xylene and would be a taxable event. Effective date.--The provision generally would be effective November 1, 1985. Taxes previously imposed on xylene (i.e., since 1980) would be refunded or credited to the taxpayers. To compensate for lost revenues, the tax rate on xylene would be increased prospectively (see table A).

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Item	Present Law	H.R. 2817	Possible Amendment
E. Treatment of exchanges	Under proposed Treasury regulations, exchanges of taxable chemicals are treated as sales.	No provision.	Subject to registration and notification requirements, where inventories of taxable chemicals are exchanged, tax would be imposed only upon the later sale or use of the chemical by the person receiving the chemical in the exchange. This rule would not apply if the receiving person would not be taxable on the sale of the chemical, unless such treatment would be as a result of the export exemption (item C above). Effective date.--The amendment regarding inventory exchanges would apply retroactively to the original effective date of the feedstocks tax (April 1, 1981). However, the amendment would not apply to any exchange before January 1, 1980, if the manufacturer, producer, or importer treated the exchange as a taxable sale. The registration and notification requirements would apply to exchanges after Decmeber 31, 1985.

Item	Present Law	H.R. 2817	Possible Amendment
F. Expiration of tax	The tax expired on September 30, 1985. The tax would have been suspended or terminated earlier under the same conditions as applied for the petroleum tax.	The tax would expire on September 30, 1990, or earlier under conditions specified for the petroleum tax.	The tax would expire on September 30, 1990; however, the tax would be extended beyond September 30, 1990, together with the petroleum and waste management taxes, for so long as necessary to repay amounts borrowed by the Superfund during fiscal years 1986-1990.
IV. Waste Management Tax A. In general	No provision. (A dry weight tax on hazardous waste is imposed under present law for purposes of funding the Post-closure Liability Trust Fund, discussed in VI., below.)	H.R. 2817, as reported by the Committee on Energy and Commerce, states that a waste end tax is to be imposed sufficient to raise $1.5 billion over fiscal years 1986 through 1990. (The amendment approved by the Committee on Public Works and Transportation would raise $1.25 billion over the period from a waste end tax.) **ADMINISTRATION PROPOSAL:** H.R. 2817 does not specify details of a waste end tax. However, the Administration has proposed a waste management tax, intended to raise $2.7 billion over fiscal years 1986 through 1990, as follows (this description reflects proposed Administration modifications to the proposal, which was originally contained in H.R. 1342):	A waste management tax would be imposed, designed to raise $2 billion over fiscal years 1986 through 1990.

Item	Present Law	Administration Proposal	Possible Amendment
B. Imposition of tax	No provision.	Tax would be imposed on (1) the receipt of hazardous waste at a qualified hazardous waste management unit, (2) the receipt of hazardous waste for transport from the United States for the purpose of ocean disposal, and (3) the export of hazardous waste from the United States. For purposes of (1) above, a "qualified hazardous waste management unit" would mean the specified area of land or structure which (i) isolates hazardous wastes within a qualified hazardous waste management facility, and (ii) is subject to interim status or final permit requirements under subtitle C of the Solid Waste Disposal Act (i.e., RCRA).	Same as Administration proposal. (A "backup" tax would also be imposed on the generation of otherwise untaxed hazardous wastes, as described in D. below).

SUPERFUND

Item	Present Law	Administration Proposal	Possible Amendment
B. Imposition of tax (Cont'd)		A "qualified hazardous waste management facility" would mean any facility (as defined under subtitle C of the Solid Waste Disposal Act) which has received a permit or interim status under section 3005(c) of the Solid Waste Disposal Act or an authorized State program. Hazardous waste would be defined as any waste which is listed or identified under section 3001 of the Solid Waste Disposal Act as of the date of enactment, and which is not subsequently delisted. Thus, wastes the regulation of which has been suspended under present law (e.g., certain suspended or mining wastes) would not be subject to tax. The United States would include Puerto Rico, the Northern Marianas, the Pacific Trust Territory, and U.S. possessions (i.e., same as for the petroleum and feedstock taxes).	

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Item	Present Law	Administration Proposal	Possible Amendment
C. Tax rates			
1. Summary of rates	No provision.	The tax would be imposed at the following initial rates, depending on the treatment, storage, or disposal method used: Land disposal — $46.10 per wet weight ton Waste water treatment — 0.25 Other taxable events (including deep well injection) — 4.59 The $46.10 per ton rate on land disposal, and the $4.59 rate for other taxable events, would phase up to $72.20 per ton and $5.00 per ton respectively over the 5-year reauthorization period. (See Appendix B) Tax rates would further be adjusted, beginning in 1988, if necessary to cover overall Superfund revenue shortfalls.	The tax would be imposed at the following initial rates, depending on the treatment, storage, or disposal method used: Land disposal — $34.00 per wet weight ton Waste water treatment — $ 0.18 Other taxable events (including deep well injection) — $ 3.40 The $34 per ton rate on land disposal, and the $3.40 per ton rate for other taxable events, would phase up to $53 per ton and $3.70 per ton respectively over the 5-year reauthorization period. (See Appendix B) No adjustments for revenue shortfalls.

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Item	Present Law	Administration Proposal	Possible Amendment
2. Applicability of rates	No provision.	Tax rates would be applied to different taxable events as follows: Land disposal.--The land disposal rate ($46.10 per ton, phasing up to $72.20 per ton) would apply to hazardous waste received at a landfill, surface impoundment, waste pile, or land treatment unit, each as defined by EPA pursuant to sections 3004 and 3005 of the Solid Waste Disposal Act. The land disposal rate would not apply to surface impoundments which are part of waste water or deep well injection facilities.	Tax rates would be applied as follows: Same as Administration proposal, but apply tax rate of $34 per ton, phasing up to $53 per ton.

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Item	Present Law	Administration Proposal	Possible Amendment
2. Applicability of rates (Cont'd)		Waste water treatment.--A $0.25 per ton tax rate would apply to hazardous waste received at any waste water facility. Waste water treatment facilities would be defined as any tank or surface impoundment which is an integral and necessary part of a treatment system-- (i) for which a permit is required under section 402 of the Clean Water Act, or (ii) which is subject to pretreatment standards under subsection (b) or (c) of section 307 of the Clean Water Act, or (iii) which is a zero discharge treatment system (a) which complies with effluent limitation guidelines promulgated under section 304(b)(2) or 304(b)(4) of the Clean Water Act which would apply for facilities discharging into navigable waters, or (b) if no such guidelines have been promulgated, which employs biological treatment.	Same as Administration proposal, but apply tax rate of $0.18 per ton.

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Item	Present Law	Administration Proposal	Possible Amendment
2. Applicability of rates (Cont'd)		Waste water treatment facilities would not include tanks or surface impoundments which receive concentrated residues resulting from treatment for storage or final disposition.	
		Other taxable events.--A $4.59 per ton tax rate (phasing up to $5.00 per ton) would apply to all other taxable events, including (1) the ocean disposal of hazardous waste, (2) the export of hazardous waste, and (3) receipt at qualified hazardous management units not listed above, including deep well injection facilities. For this purpose, deep well injection facilities would include any underground injection well;	Same as Administration proposal, but apply tax rate of $3.40 per ton, phasing up to $3.70 per ton.

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Item	Present Law	Administration Proposal	Possible Amendment
2. Applicability of rates (Cont'd)		(i) which is operated pursuant to a permit or interim status under the Solid Waste Disposal Act, and (ii) which is authorized to inject hazardous waste under the Safe Water Drinking Act. Containers, tanks, or surface impoundments principally used to treat or store hazardous waste before underground injection would also be taxed as part of an underground injection well facility.	

SUPERFUND

Item	Present Law	Administration Proposal	Possible Amendment
D. Backup tax on generation of hazardous waste	No provision.	No provision.	Beginning January 1, 1987, if no tax is otherwise imposed with respect to hazardous waste within 270 days after its generation, a tax would be imposed on the generation of the waste. The tax would be payable by the person generating the waste. For hazardous waste received at a non-RCRA facility, the tax would be imposed at a rate equivalent to that which would have been imposed on the same type of RCRA-qualifying facility. Hazardous waste illegally placed on land (including so-called "midnight dumping" of hazardous waste) would be taxed at the highest (i.e., land disposal) rate. The backup generation tax would not apply to small generators of hazardous waste (i.e., those generating less than 100 kilograms per month), or to waste that is otherwise specifically exempt from tax.

SUPERFUND

Item	Present Law	Administration Proposal	Possible Amendment
E. Exemptions from tax	(1) No provision.	(1) Treatment, storage, or disposal of hazardous waste pursuant to a removal or remedial action under CERCLA, if the response action has been selected or approved by the EPA Administrator.	(1) Same as Administration proposal.
	(2) No provision.	(2) Corrective actions required by an order or permit issued by, or a closure plan approved by, the EPA Administrator under the Solid Waste Disposal Act (or by a State under an authorized program).	(2) Same as Administration proposal.
	(3) No provision.	(3) Hazardous waste generated at a Federal facility.	(3) Hazardous waste received at a Federally owned facility.

SUPERFUND

Item	Present Law	Administration Proposal	Possible Amendment
F. Procedure and Administration			
1. Payment of tax	No provision.	Tax would be payable by (i) the owner or operator of a qualified hazardous waste management unit, (ii) the owner or operator of the vessel or aircraft engaged in ocean disposal, or (iii) the exporter of hazardous waste.	Same as Administration proposal. The backup generation tax would be imposed on the person generating the hazardous waste.
2. Avoidance of double tax	No provision.	If tax is paid with respect to hazardous waste, and a later taxable event takes place with respect to the same waste, the tax on the later taxable event would be reduced by the product of (a) the weight of hazardous waste involved in the later taxable event, multiplied by (b) the lesser of (i) the highest tax rate previously paid on any taxable event involving the same waste, or (ii) the rate of tax on the later taxable event.	Same as Administration proposal.

SUPERFUND

Item	Present Law	Administration Proposal	Possible Amendment
3. Information reporting and penalty provisions	No provision.	Persons subject to the waste management tax, and other persons identified in Treasury regulations, would be required to submit to the Treasury such information as may be required in the regulations. This information would include, but not be limited to, information which is required to be provided to EPA under the Solid Waste Disposal Act. A penalty of $100 per day (not to exceed a total $50,000 penalty) would be imposed for failure to provide required information, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. (This penalty would be in addition to any other penalty provided by law.) It would be clarified that the negligence penalty under section 6653 of the Code applies to all Superfund excise taxes.	Same as Administration proposal.

SUPERFUND

Item	Present Law	Administration Proposal	Possible Amendment
G. Termination date	No provision.	The tax generally would expire on September 30, 1990, but would be extended for up to 6 months, if necessary, to cover shortfalls in anticipated Superfund revenues. The tax would terminate earlier than September 30, 1990, if aggregate Superfund receipts during the reauthorization period reached $5.3 billion. Effective date.--Hazardous waste received or exported after September 30, 1985.	The tax would expire on September 30, 1990; however, the tax would be extended beyond September 30, 1990, together with the petroleum and feedstock taxes, for so long as necessary to repay with interest amounts borrowed by the Superfund during the 5-year reauthorization period. Effective date.--Hazardous waste received or exported on or after January 1, 1986. The backup tax on generation would be effective for waste generated on or after January 1, 1987.

SUPERFUND

Item	Present Law	H.R. 2817	Possible Amendment
V. Broad-based Corporate Tax	No provision.	H.R. 2817, as reported by the Committee on Energy and Commerce, states that a broad-based corporate tax is to be imposed sufficient to raise $4.5 billion over fiscal years 1986 through 1990. (The amendment approved by the Committee on Transportation and Public Works would raise $3.6 billion over the period from a broad-based tax.)	No provision.
VI. Post-closure Liability Trust Fund and Tax	The Post-closure Liability Trust Fund is to assume completely the liability, under any law (including CERCLA), of owners and operators of hazardous waste disposal facilities which have been granted permits and have been properly closed under Subtitle C of RCRA. The fund also may be used to pay certain monitoring and maintenance costs. An excise tax of $2.13 per dry weight ton is imposed on the receipt of hazardous waste at a qualified facility, in order to finance the post-closure fund. The tax was originally effective October 1, 1983.	Repeal the Post-Closure Trust Fund and the associated waste disposal tax retroactively to their original effective date.	Repeals the Post-Closure Trust Fund and the associated disposal tax, retroactively to their original effective date. Previously paid taxes are to be refunded to the original taxpayers with interest.

SUPERFUND

Item	Present Law	H.R. 2817	Possible Amendment
VII. Oil Spill Liability Trust Fund			
A. In general	Funds relating to oil spill damages and cleanups have been created under various Federal statutes, including: (1) Section 311(k) of the Federal Water Pollution Control Act (Clean Water Act) ($35 million revolving fund for oil spill cleanups, supported by fines, penalties, and general revenue appropriations); (2) The Trans-Alaska Pipeline Authorization Act ($100 million fund, financed primarily by a 5-cent per barrel charge on oil passing through the pipeline); (3) The Deepwater Port Act of 1974 ("Deepwater Port Liability Fund") ($100 million fund, financed by a 2-cent per barrel fee on oil loaded at a deepwater port); and (4) The Outer Continental Shelf Act Amendments of 1978 ("Offshore Oil Pollution Compensation Fund") ($200 million fund with respect to offshore oil spills, financed by a maximum 3-cent-per-barrel fee on owners of offshore oil).	Under a provision approved by the Committee on Merchant Marine and Fisheries and the Committee on Public Works and Transportation, a Marine Oil Pollution Compensation Trust Fund (the "oil spill fund") would be established, to be funded partially by a maximum 1.3 cent-per-barrel "premium" on domestic and imported oil. The fund would provide a comprehensive system of liability and compensation with respect to oil spills from vessels or offshore facilities.	An Oil Spill Liability Trust Fund would be established under the same general provisions as contained in H.R. 2817, subject to the amendments described below.

Item	Present Law	H.R. 2817	Possible Amendment
A. In general (Cont.)		Amounts in the oil spill fund would be available for the costs of cleanups, damages sustained by any U.S. claimant, and related costs associated with oil spills. Claimants would generally have the option of proceeding against a responsible party or recovering against the fund, which could then proceed against the responsible party. The legislation would constitute an exclusive remedy for claims covered by the fund. Liability of responsible parties would be on a strict, joint and several basis, with liability limits consistent with international agreements. In connection with the establishment of the oil spill fund, excess amounts remaining in the fund created by section 311(k) of the Federal Water Pollution Control Act would be repaid to the general Treasury. Amounts in the Offshore Oil Pollution Compensation Fund and the Deepwater Port Liability Fund would be transferred to the new oil spill fund.	

SUPERFUND

Item	Present Law	H.R. 2817	Possible Amendment
B. Uses of fund	No provision.	Expenditure purposes.--Amounts in the oil spill fund would be available for:	
		(1) Immediate payment of costs incurred in cleaning up or preventing oil pollution from vessels or offshore facilities ("removal costs"), including costs incurred by government officials in carrying out oil pollution cleanup requirements under the Federal Water Pollution Control Act and the Intervention on the High Seas Act.	(1) Same as H.R. 2817.
		(2) Injury to, or destruction of, real or personal property.	(2) Delete compensation for property damage as a permitted expenditure purpose.
		(3) Payment of reasonable costs incurred by a governmental trustee in assessing damaged resources, and costs to restore or replace damaged resources.	(3) Deletes natural resource damage assessments and claims as a permitted expenditure purpose.
		(4) Loss of subsistence use of natural resources.	(4) Delete compensation for loss of subsistence use of natural resources as a permitted expenditure purpose.

SUPERFUND

Item	Present Law	H.R. 2817	Possible Amendment
B. Uses of fund (Cont.)		(5) Payment of otherwise uncompensated damages for economic loss sustained by any United States claimant (including private parties) as a result of oil pollution from vessels or offshore facilities, or the substantial threat of such pollution. Compensable damages would include lost earnings and profits if: (i) 25 percent or more of the claimant's earnings, or (ii) in the case of seasonal activities, 25 percent of seasonal earnings (e.g., one-quarter or more of summer wages) are derived from affected activities.	(5) Delete private damage payments as a permitted expenditure purpose.
		(6) Compensable damages would also include up to one year of tax revenues lost by a State or local government.	(6) Delete replacement of State and local tax revenues as a permitted expenditure purpose.
		(7) Payment of contributions to the fund established by the 1984 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, if this compensation (and a related liability convention) came into force with respect to the United States.	(7) Same as H.R. 2817, to the extent consistent with the permitted uses of the fund.
		(8) Administrative costs.	(8) Same as H.R. 2817.

SUPERFUND

Item	Present Law	H.R. 2817	Possible Amendment
B. Uses of fund (Cont.d)		(8) Administrative costs.	(8) Same as H.R. 2817.
		Limitations on liability.--The liability of the fund could not exceed $200 million for any single incident.	Same as H.R. 2817.
		No claim (other than a claim for removal costs) could be paid to the extent that payment would reduce the amount in the fund below $30 million. (The fund would, however, have authority to borrow in such situations).	
		Claims against the fund could be paid only out of the fund, in the order in which finally determined.	

SUPERFUND

Item	Present Law	H.R. 2817	Possible Amendment
C. Premium on domestic and imported oil	See A., above. (A tax on petroleum is imposed for deposit in the Superfund (see II above).)	Imposition.--A "premium" of up to 1.3 cents per barrel would be imposed on: (1) crude oil received at a United States refinery, (2) crude oil or other petroleum products entered into the United States for consumption, use, or warehousing, or (3) crude oil exported from the United States, to be deposited in the oil spill fund. The premium would be paid by the refinery operator (in the case of oil refined and used in the United States), or by the importer or exporter of the oil. Natural gasoline produced from natural gas would be considered to be received at a refinery at the time produced. The United States would include territories and possessions.	An excise tax of 1.3 cents per barrel would be imposed on domestic crude oil and imported petroleum products (with the same tax base as for the Superfund petroleum tax, in II., above).

SUPERFUND

Item	Present Law	H.R. 2817	Possible Amendment
C. Premium on domestic and imported oil (Cont.)		The exact amount of the premium (to a maximum of 1.3 cents per barrel) would be established by the Marine Oil Pollution Insurance Corporation, which would manage the fund under the Department of Transportation (as described below).	The rate of tax would be 1.3 cents per barrel.
		Credit for previous contributions.--A credit against premiums would be allowed for persons who previously contributed to (1) the Deepwater Port Liability Fund, or (2) the Offshore Oil Pollution Compensation Fund (The balance in these funds would be transferred to the oil spill fund.)	No credit for prior contributions would be provided.
		Collection procedures.--Collection procedures for the premium would be established by the Secretary of Transportation, in consultation with the Corporation. The Corporation could bring an action in U.S. District Court to enforce collections.	The same collection and enforcement procedures applicable to the Superfund petroleum tax would apply.
		Penalties.--A maximum $10,000 penalty would be provided for failure to pay any premium.	The same penalties applicable to the Superfund petroleum tax would also apply.

SUPERFUND

Item	Present Law	H.R. 2817	Possible Amendment
D. Suspension and rebate of premiums	No provision.	Collection of premiums would be suspended at any time during which the total amount in the oil spill fund equals or exceeds $200 million. If the total amount in the oil spill fund exceeds $300 million, income from securities held by the fund would be rebated to those who paid premiums, on a first-in, first-out basis. Rebates would continue only as long as the fund exceeded $300 million.	Tax liability would terminate on September 30, 1990, with no suspension or rebate provisions.

SUPERFUND

Item	Present Law	H.R. 2817	Possible Amendment
E. Other financing sources	No provision.	In addition to oil premiums, the following amounts would be deposited in the oil spill fund; (1) Amounts recovered, collected, or received from responsible parties. (2) Amounts remaining in the Deepwater Port Liability Fund, the Offshore Oil Pollution Compensation Fund, relating to oil spill liability as of the date of enactment. (3) Income on fund investments. (4) The proceeds of authorized borrowing by the fund, not to exceed $300 million in outstanding indebtedness at any time. (5) Penalties.	Same as H.R. 2817, except penalties with respect to payment of taxes, would not be deposited in the oil spill fund.

SUPERFUND

Item	Present Law	H.R. 2817	Possible Amendment
F. Administrative provisions	No provision.	Under the provision approved by the Committee on Merchant Marine and Fisheries, a wholly-owned government corporation (the Marine Oil Pollution Insurance Corporation) would be created to administer the oil spill fund. The Administrator of the Corporation would be appointed by the President (subject to Senate approval), and would report to the Secretary of Transportation. The oil spill fund would be administered by the Corporation as a public enterprise fund account in the Treasury, rather than as an official designated trust fund. The Corporation would report annually to Congress regarding its activities and proposed legislative changes. (Under the amendment approved by the Committee on Public Works and Transportation, the oil spill fund would be established as a Federal trust fund, to be administered by the Secretary of Transportation.)	The Oil Spill Liability Trust Fund would be established as a trust fund under the Internal Revenue Code.

SUPERFUND

Item	Present Law	H.R. 2817	Possible Amendment
G. Termination Date	No provision.	No termination date is included in the amendment.	The tax would expire on September 30, 1990.
		Effective dates.--The fee collection, compensation, and liability provisions under the amendment would generally be effective 180 days after enactment. Provisions necessary to allow implementation of fund mechanisms within 180 days (e.g., definitional provisions and obligation of regulatory authority) would be effective immediately upon enactment.	Effective date.--January 1, 1986.

APPENDIX A: EXCISE TAX RATES ON FEEDSTOCK CHEMICALS UNDER PRIOR LAW AND PROPOSED AMENDMENT

Substance	Prior Law Rate	Proposed FY86 Rate 2/
Organic Substances:		
Acetylene	4.87	4.87
Benzene 1/	4.87	4.87
Butadiene	4.87	4.87
Butane	4.87	4.87
Butylene	4.87	4.87
Ethylene	4.87	4.87
Methane	3.44	3.44
Napthalene 1/	4.87	4.87
Propylene	4.87	4.87
Toluene 1/	4.87	4.87
Xylene 1/	4.87	9.81 3/
Inorganic Substances:		
Ammonia	2.64	4.20
Antimony	4.45	4.45
Antimony trioxide	3.75	4.45
Arsenic	4.45	4.45
Arsenic trioxide	3.41	4.45
Barium sulfide	2.30	4.45
Bromine	4.45	4.45
Cadmium	4.45	4.45
Chlorine	2.70	4.03
Chromite	1.52	1.52
Chromium	4.45	4.45
Cobalt	4.45	4.45
Cupric oxide	3.59	4.45
Cupric sulfate	1.87	4.45
Cuprous oxide	3.97	4.45
Hydrochloric acid	0.29	1.24
Hydrogen fluoride	4.23	4.45
Lead	0.00	4.45
Lead oxide	4.14	4.45
Mercury	4.45	4.45
Nickel	4.45	4.45
Nitric acid	0.24	3.90
Phosphorus	4.45	4.45
Potassium dichromate	1.69	4.45
Potassium hydroxide	0.22	4.45
Sodium dichromate	1.87	4.45
Sodium hydroxide	0.28	3.72
Stannic chloride	2.12	4.45
Stannous chloride	2.85	4.45
Sulfuric acid	0.26	1.03
Zinc chloride	2.22	4.45
Zinc sulfate	1.90	4.45

1/ Coal-derived benzene, napthalene, toluene, and xylene are exempt under current law. These substances would be taxed at the indicated rates under the proposal.

2/ Proposed rates would be indexed for inflation, beginning in 1987, but would not be reduced below the rates stated in the table.

3/ Tax rate on xylene reflects increase to compensate for repeal tax prior to December 31, 1985.

APPENDIX B: PROPOSED WASTE MANAGEMENT TAX RATES

ADMINISTRATION PROPOSAL

Year	1986	1987	1988	1989	1990
Land	$46.10	50.00	52.80	59.90	72.20
Injection and Treatment	4.59	4.98	5.00	5.00	5.00
Waste-water	0.25	0.25	0.25	0.25	0.25

WAYS AND MEANS PROPOSAL

Year	1986	1987	1988	1989	1990
Land	34.00	37.00	39.00	44.00	53.00
Injection and Treatment	3.40	3.70	3.70	3.70	3.70
Waste-water	.18	.18	.18	.18	.18